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Date of Signature and Deposit: January 14, 2004

Adam J. Forman
Attorney of Record

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Mark A. Lucak
Serial No.: 09/843,563
Filed: 04/26/01
Examiner: Coleman, William D.
Group Art Unit: 2823
Docket No.: 00AB179
Title: *Method for Fabricating a Microelectromechanical System (MEMS) Device Using a Pre-Patterned Substrate*

RESPONSE TO FINAL OFFICE ACTION

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA, 22313-1450

Dear Sir:

In response to the Final Office Action dated October 14, 2003, please amend the above-identified patent application as follows:

02/11/2004 ASMITH 00000003 170055 09843563

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claims pending in the '545 application are directed to forming either in the wafer, or in a spacer material attached to the wafer. The methods claimed in the two pending applications thus do not recite steps that are obvious variations of each other and, in fact, produce differing structures, as discussed above.

Withdrawal of the rejection of claims 1-9 and 42-81 on the grounds of obviousness-type double patenting is therefore respectfully requested.

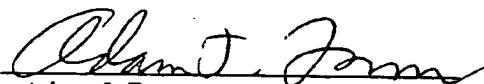
III. Conclusion

Applicant therefore respectfully asserts that all rejections and objections have been overcome. Accordingly, the application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

No fee is believed to be due with this communication. However, if any fees are deemed due, Applicant hereby authorizes the Commissioner to deduct said fees from deposit account No. 17-0055. The Examiner is invited to contact the undersigned at the telephone number appearing below if such would advance the prosecution of this application.

Respectfully submitted,

By:



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